



# Town of Carlisle

MASSACHUSETTS 01741

Office of

*PLANNING BOARD*

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## MINUTES

March 24, 1997

**CONTINUED PUBLIC HEARING: Definitive Subdivision Plan for Pine Meadow (Maple St.). William Costello Realty Trust, applicant.**

**CONTINUED PUBLIC HEARING: Definitive Subdivision Plan for Hunters Run (off Nickles La. and Oak Knoll Rd.), Brian E. Hebb Builders, Inc., applicant.**

**Review of engineer's proposals to correct drainage deficiencies at Ice Pond Subdivision, and status of subdivision approval**

**Review of draft bylaw amendments and rules and regs. to establish Open Space Residential Development provisions; discussion of planned presentation for public hearing and additional outreach**

Chair Colman convened the meeting at 7:20 p.m.. Present were Colman, Duscha, Epstein, Hengeveld, LaLiberte and Yanofsky. Tice was absent. Also present was Planning Administrator George Mansfield.

The **minutes** of the meeting of February 24, 1997 were approved as amended with typographical corrections on a motion by Yanofsky, seconded by Hengeveld. The motion was approved 5-0, Epstein not voting. It was further noted that Hengeveld was recused from discussion of items relating to Tall Pines subdivision.

LaLiberte reported that the Fin. Com. had approved the Planning Board's requested budget for FY '98 at the level submitted.

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**Request for recommendation re: sale of Chapter 61A land on Prospect St. for residential use**

Mansfield had pointed out to the board that there had been no notice given to them and to the conservation commission of this request for release from Chapter 61A as required by statute. Colman suggested that a note be sent to the Board of Selectmen saying that under the law the PB has not been properly notified and therefore can't submit a recommendation. Duscha suggested that the Open Space report be consulted to determine the priority for retaining this land.

**Review of draft decision for amendments to a Common Driveway Special Permit, Lots 1-3, Cross Street, Chris and John Fielding, applicants**

The decision was accepted by the board as drafted and members signed the mylars of the approved special permit.

**CONTINUED PUBLIC HEARING: Definitive Subdivision Plan for Pine Meadow (Maple St.). William Costello Realty Trust, applicant**

Colman reopened this hearing at 7:30 p.m. Present were Bill Costello and Richard Gallogly, his attorney, George Dimakarakis of Stamski and McNary, Louisa and Jay Heard, Tony Mariano, Douglas Stevenson, Mary and Lee Storrs, Joan Parker, Louise Hara, Kathleen Coyle, Bonnie and Gabor Miskolczy, Jean Morin, Jamie Lieb, Seba Gaines, Brian Anderson and Stephanie Shenton. Also present from McGregor and Shea in Boston were Daniel Stevens and Gregor I. McGregor.

Attorney Gallogly began by reminding the Board that he was asked last time to look at the lots along Maple St. Costello said that he would be willing to increase the setback on Lot 15 from 40 ft. to 60 ft. On Lot 10, however, he said, there was very little he could do because of the location of the septic system. It is a narrow lot and the required setback of the building site for the septic system would require a substantial amount of cutting and grading to accommodate the septic system. He said, however, he might be able to keep some "character" trees. Furthermore, he said, he does not want to seek further approvals from the Conservation Commission. Regarding Lot 1, he proposed shifting the lot lines to get the house on Lot 2 further from the river, possibly doubling the setback to 80 ft. and providing some planting on the open field. He said he could plant some thirty 5-6 ft. high pine trees which will obscure the view of the field from the road, but also screen the three houses that would be in the field and their elevated septic systems. George Dimakarakis of Stamski and McNary explained they found ground water at a 4 ft. depth so that they would be proposing 4 ft. high septic system mounds. Colman that it would be many years before these trees would grow to screen these houses and septic systems. Costello

suggested that if the board wants to take a reservation on Lot 1, he would request that they reduce it to 1 year or 14 months so the septic permit does not expire. He also pointed out the previously proposed shoulder area on Maple St. would remove several trees. He said he would still accept the waiver of the sidewalk requirement. Duscha asked whether, if the new plan has a sidewalk does this affect the DEP approval granted in a superseding order of conditions. Gallogly replied that if the board wishes to have a sidewalk they would have to go back to DEP, but it is not a major change. Yanofsky asked that if a larger percentage of Lot 10 must be disturbed, would the applicant be willing to do additional plantings there. She received a non-committal answer. She added that she would really like to have the house moved back and reoriented so it faces Maple St. Costello replied that he would not want to tie himself to that.

Colman then opened the hearing for public comment, suggesting that speakers keep their remarks to 5-10 minutes unless new information was being provided. Louisa Heard of Maple St. pointed out that this petition gives the Board a second chance to look at this important piece of land. She said that Mr. Costello should be made to understand its significance to the town. Colman replied that the importance of the property as an aquifer is something the PB can't really help with. If a plan has been submitted without the need for waivers, the Board has no choice but to approve it, he said. However, he added, we are trying to make it better. Heard suggested that the originally approved conditions be reinstated. Colman replied, that is exactly what the Board is trying to do, but noted that they have no power to stop this construction. Heard said she understood, and added that she and her neighbors are not anti-growth.

Louise Hara, who identified herself as an associate of the Trails Committee, requested that the easement giving a right-of-way to Page Brook Rd. be reconsidered in this plan. She said she understood that it would not be possible to construct a trail over this easement at this time, but they would like the option available for the future. She added that the Bay Circuit Alliance no longer has plans for the property, but will use on-street routes in this vicinity. Costello replied that he would accept this easement as a condition of approval of the plan. Mariano pointed out that there is an existing trail as well, through this property, connecting to Brook St. Costello said that he would agree to this easement as well. Colman asked him to identify in writing which lots these potential easements would cross. Mary Storrs of Brook St. asked how high the houses were going to be. Dimakarakis replied that they would be set close to grade and well below the elevation of the Storrs home. Colman asked if trees could be planted to buffer their property. Costello replied in the negative saying that the buffer zone issue rests with the Conservation Commission. Jay Heard said he would like to see larger trees planted along Maple St.

Kathy Colye of Maple St. distributed a letter to the board outlining the concerns of the neighborhood. She explained that she had been associated with this property since 1969 when it was proposed to become the town dump. She said that Tony Mariano and she had been discussing the proposal with many neighbors, and collectively they are urging the Board to reconsider and review this plan. Colman, after reviewing the letter, commented

that the purpose of public meetings is to allow the public to know what the Board is doing. He said that the public does not have a right to make unlimited presentations to the Board and the public has to realize that the Board has no way to stop this development. He said that most, if not all, of Coyle's requests were beyond the power of the Board. Coyle asked for a continuance of the hearing so that her group could make a presentation to the Board. Colman replied that they don't have a right to speak. Coyle responded that many in town would like to see this land purchased by the town. Colman, however, stressed that the Board has to decide on the petition before it.

Colman then recognized attorney Gregor McGregor of McGregor and Shea in Boston, representing a group of neighbors to the site of this petition. McGregor urged the Board to treat this application as a new definitive plan. He explained that his clients are a group of citizens of Carlisle and on their behalf he requested that the hearing be continued to hear a citizen presentation and presentation of expert witnesses. He said that the cover letter to the Pine Meadow application asks the Board to affirm that they meant to waive the 60 day requirement for recording a subdivision plan. Epstein replied in explanation that the Board is treating this as a new subdivision application. He further said that if the Board doesn't act on the plan as submitted, they will be sued. McGregor asked who told them that and Epstein replied that that was town counsel's advice. He further said that the Board is trying to improve their position, trying to win back some of the concessions included in the first approval. McGregor asked whether the request to waive the 60 day requirement has been withdrawn. Epstein replied that it has not. McGregor said that it shouldn't be waived at this time either.

McGregor advised the Board that there are performance standards in the Carlisle Rules and Regs. He cited sections 4.B.2. and 4.E. of the regulations, relating to easements for waterways and protection of natural features respectively, and asked whether these questions have been determined on the record. He said that the Board does have the power to protect natural features such as a vernal pool.

He also contended that this was a truncated public hearing. He said that it does not encompass the record of the previous hearing as it should. Colman replied that the previous week, at a meeting with town counsel, she had stated that the purpose of the open meeting law is not for public comment. He said that we in Carlisle have tried to allow as much testimony at public hearings as possible. He took exception to McGregor's contention that the Board is cutting discussion short. McGregor urged him to recheck this advice with town counsel, noting that there is a difference between a meeting and a hearing. A public hearing is for the public to make its views known regardless of whether the Board thinks they are relevant or not, he said. He added that his clients will have input when this plan is through being tinkered with.

Bonnie Miskolczy of Cross St., said she was here when this site was being considered as a town dump. As a member of the Conservation Commission at that time, she said, they decided that this property should be protected as a future water resource area. She asked

also that the hearing be continued. Recognizing that another hearing was scheduled this evening, Colman then decided to continue this hearing until April 14, 1997 at 7:30 p.m. He said that the hearing would be limited to one additional hour at that time. He and McGregor agreed to allow a 20 minute citizen presentation on that date.

**Continued Public Hearing: Definitive Subdivision Plan for Hunters Run (off Nickles La. and Oak Knoll Rd.), Brian E. Hebb Builders, Inc., applicant**

Present for this hearing were David Kelch of Oak Hill Road and Ferris Taylor and Jerry Smith of Hemlock Hill Rd. Colman took note, as Mansfield had explained prior to the meeting, that no one was present representing the applicant and asked whether it was proper to take testimony. Taylor said that the neighbors know that the applicant was not going to be represented tonight. LaLiberte noted that he was recused from this hearing. Mansfield explained that the engineers for the applicant have requested a continuance to the next meeting, April 14th. The expiration date, as extended, is April 18th, he said. Smith said that he had information for the fire and police chiefs and asked whether it should be transmitted to them and they should be asked to attend the next hearing. Colman replied that that would be a proper procedure. Yanofsky **moved to continue the hearing to April 14th at 9:00 p.m.** Duscha seconded the motion and it was **approved by a vote of 5-0 with one recused (LaLiberte).** No testimony was taken on the application itself.

**Review of engineer's proposals to correct drainage deficiencies at Ice Pond Subdivision and status of subdivision approval**

LaLiberte recused himself from this discussion. Colman read the 3/20/97 letter from John Boardman of Ross Associates into the record, stating that he would have no information for this meeting and asking to reschedule for a time in April. Yanofsky observed that she believed they were dickering with the Board. Duscha suggested that the guidelines prepared by Town Counsel last fall for declaring default be followed and that process should be activated. Epstein asked whether the fact that they had not completed the drainage design was a reason to declare the developer in default. Colman replied that it was not. Epstein pointed out that Hebb had agreed to correct the drainage problem before finishing the road. Hengeveld suggested that it would be unduly messy to bring the drain into a declaration of default. Duscha observed that the drainage plan was originally due in January. Epstein referred to the P.A.'s letter of 2/12/97, correcting the observation that the date set to complete the drainage plan was 2/18/97.

Colman stated that the Board will need to re-notice the developer of their intent to declare him in default. Yanofsky agreed, suggesting that the date of April 14 be established at which to make that finding. Colman suggested that Hebb also be given an opportunity to be heard then. But if some agreement can't be reached on or before that date, he said, the Board should vote to establish default. It was agreed that the P.A. would draft the letter for Colman's review and signature to be sent Certified Mail, and that copies would be sent to Town Counsel, the Selectmen, the Treasurer, and Ross Associates. There was also debate on whether to copy this letter to the homeowners in Ice Pond, but Colman concluded that the Board should wait until 4/14 and see then what the outcome is.

Yanofsky suggested that LandTech be asked for a complete estimate for the completion of the road, as per Town Counsel's guidelines. Colman said that the cost of the drainage work should also be estimated, in a separate category, because the security money may not be able to be used for the drain work, since it wasn't in the approved subdivision plan. He suggested that, with that estimate, the Town could approach the homeowners and ask them to fund the drainage work before the Town completes the road. Epstein asked whether Town Counsel should be consulted on this point, but Colman suggested that this could wait until the next stage.

#### **Review of voter petition article for zoning bylaw amendment to allow dead end streets up to 1800 ft. in length**

Ferris Taylor, the lead petitioner, said that he wants to withdraw this petition, but needs to know what the procedure is. Yanofsky suggested that he talk with the town clerk regarding this question. Taylor replied that he had talked with the town administrator who said that she was consulting town counsel about his request. One procedure might be to reduce the number of petitioners to nine which would make this an invalid petition. Yanofsky suggested that a public hearing on this petition could be scheduled if necessary on the day before town meeting, giving maximum time for this petition to become null and void. No further conclusions were reached at this time.

#### **Review of draft bylaw amendments and rules and regs. to establish Open Space Residential Development provisions**

Colman reported that he had spoken to Police Chief Dave Galvin and Building Inspector Bob Koning, and they are both in favor of this concept, he said. Bob, however, needs to think about some of the details, he added. Yanofsky asked whether the Board of Health has made any formal requests for additional information. She noted they had asked for the Acton open space regulations. She said that the BOH's main concern is that if someone uses the formula proposed to determine the number of lots in an open space development they will get a density bonus. LaLiberte said that the PB understands that this is a possibility. Yanofsky added that the BOH should be reminded that this is a special permit

situation and therefore discretionary with the PB. With several other town boards reviewing the proposed amendments at their meetings, PB members agreed to attend as follows: Duscha will go to the Cons. Com. meeting, Epstein and LaLiberte will go to the BOH, and LaLiberte will attend the Fin. Com. meeting. Duscha suggested that a letter of support be sought from the Carlisle Conservation Foundation and other appropriate groups. Hengeveld agreed to call the CCF president, Eunice Knight. Epstein asked if the Selectmen also want a representative at their meeting and Colman agreed to contact Selectman Fitzgerald.

Yanofsky explained that the Acton Bylaw allows for a density bonus, but, she said, they also have an aquifer protection bylaw and cluster development is restricted to certain districts. Epstein suggested that members explain to other boards that the PB is simply subdividing the land, not assuring the lots are buildable. Colman agreed, saying that many people are thinking that this is similar to an S.R.O.S.C. and that is where they are confused because the latter is a special permit encompassing the entire development. Yanofsky suggested additional outreach. She asked whether people on Cross Street and Hemlock Hill Road should be approached to hold coffees for Planning Board members in their neighborhoods where the proposed cluster bylaw changes could be explained in small groups. She asked whether individual citizen activists such as Kathy Coyle and Ruth Toscano have been approached. She also asked whether anyone has contacted the Trails Committee. Duscha agreed to call Judy Lane, head of that committee. Mansfield suggested that publicity ought to be sought through the *Mosquito*.

The Board then discussed the residential compound section of the proposed amendments. Yanofsky commented that the bonus offered in this section is not a surprise to her, but added that it is not by right, but discretionary. However, Colman said, Selectman Vivian Chaput has told him that if this proposal is not density neutral and discourages pork chop lots, she may have to come out against it, because the current zoning in Carlisle is effectively greater than 2 acres. LaLiberte agreed to talk to Chaput further on this issue. Epstein suggested that the consultant, Mark Bobrowski be contacted to see if he has a comment on this question.

Epstein then turned to a discussion of the agenda for the Public Hearing. Yanofsky said that she would be adamant that the consultants attend to field questions, but in no way, she said, should they become the lead proponents of this article at Town Meeting even if they succeed at the Public Hearing. She said that the hearing should serve as a rehearsal for Town Meeting and that Epstein should introduce each article. Epstein noted that Brobrowski's references had related that he was good at handling public meetings. LaLiberte commented that we had employed consultants to tell us what has worked in other towns in the past, but Yanofsky added that naming certain towns in a public forum in Carlisle may hit the wrong tone. Colman said that most presentations at Town Meeting involve first the board members and then the technical experts. The Board concluded the density issue was critical and that Bobrowski would be consulted in its regard.

**Discussion of Planning Board clerical assistance**

Mansfield reported that he had asked Judy Johnson who is currently providing part-time assistance to both the Board of Appeals and the Conservation Commission, if she would like to help us, but she cannot. He also provided to the Board copies of an unsolicited resume from Anja Stam, who had been referred by Johnson. Colman asked Mansfield to find out from the Town Administrator whether it was necessary to advertise for this part-time position. LaLiberte said he will mention to the Finance Committee that the Board may be over budget in this account.

The meeting was adjourned at 10:15 p.m.

Respectfully submitted,

A handwritten signature in cursive script, reading "George Mansfield".

George Mansfield  
Planning Administrator